

BEFORE THE TENNESSEE REGULATORY AUTHORITY
REGULATORY AUTH.
NASHVILLE, TENNESSEE

01 JUN 29 AM 10 35

IN RE:)	OFFICE OF THE EXECUTIVE SECRETARY
SHOW CAUSE PROCEEDING AGAINST)	DOCKET NO.
GASCO DISTRIBUTION SYSTEMS, INC.)	97-00293 and 97-00160
)	

STAFF RESPONSE TO *PETITION FOR RECONSIDERATION*
and *PETITION FOR REVIEW OF INITIAL ORDER*

On June 22, 2001, Gasco Distribution Systems, Inc. ("Gasco") filed with the Tennessee Regulatory Authority ("Authority" or "TRA") a *Petition for Reconsideration* ("Reconsideration") and a *Petition for Review of Initial Order* ("Review"). Staff of the TRA's Energy and Water Division ("Staff") files the following response to both the Petition for Reconsideration and the Petition for Review.

Petition for Reconsideration

Through its Petition for Reconsideration, Gasco is merely requesting that the Hearing Officer protract the payment schedule of the fine as set forth in the Initial Order of June 7, 2001. Fundamentally, Staff does not oppose an amendment to the payment schedule, but believes the Hearing Officer should be made aware of the following information that counsel for Gasco brought to Staff's attention.

Pursuant to the Authority's *Order Affirming the October 1, 1998, Initial Order of Hearing Officer* (In Re: Show Cause Proceeding Against Gasco Distribution Systems, Inc., TRA

Docket Nos. 97-00160 and 97-00293, issued November 5, 1998), a \$2,425.00 payment of a fine was due on or before January 1, 2001. Inexplicably,¹ at that time Gasco made two payments of \$2,425.00, which effectively means that Gasco currently has a \$2,425.00 credit balance with the State of Tennessee. Staff has verified this credit balance with the proper state officials.

Considering Gasco's request to protract the payment schedule and in light of this credit balance that has existed for approximately six months, if the Hearing Officer is inclined to amend the payment schedule, Staff proposes the following:

August 1, 2001 \$3,425.00 (to which the credit could be applied)

December 31, 2001 \$3,125.00 (balance)

It is important to note that regardless of the above, a payment of \$625.00 relative to the original fine is due and payable on or before July 1, 2001.

Petition for Review

As for the Petition for Review, Staff is of the opinion that Gasco filed such merely to preserve its right of appeal to the Authority. If Gasco is given the relief it has requested in its Petition for Reconsideration, this Petition for Review will become moot. Therefore, the Petition for Review should be held in abeyance pending the Hearing Officer's resolution of the Reconsideration.

Notwithstanding the above, Staff must point out that pursuant to Tenn. Code Ann. § 4-5-315(c), the Petition for Review is deficient in its current form, as it states no basis for appeal.² Therefore, Staff requests that if the Petition for Review does not become moot, it be dismissed for failure to state a basis for appeal. As an alternative to dismissal, if the Petition for Review

¹ This appears to be another consequence of what one Director described in essence as "terrible management". Transcript of April 17, 2001 Authority Conference, p. 24.

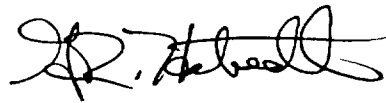
² "The petition for appeal shall state its basis." Tenn. Code Ann. § 4-5-315(c).

does not become moot, Gasco should be directed to amend its Petition, stating a basis for appeal, at which time Staff will respond with specificity to such basis.

Related Matters

In a related matter, Staff would like to inform the Hearing Officer as well as the Authority that substantive settlement negotiations have, and continue to be, engaged in between Gasco, Staff and the Consumer Advocate relative to this docket's peripheral issues and other matters pertaining to Gasco. There is an attempt to reach a "global" settlement relative to all remaining issues, and the parties hope to present such a proposed agreement in the very near future. However, counsel for Staff will be out of state between July 5-13, 2001, and therefore requests that the Hearing Officer and the Authority take no action that requires his presence during that time period.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "G. R. Hotvedt", with a stylized flourish at the end.

Gary R. Hotvedt
Counsel for TRA Staff

CERTIFICATE OF SERVICE

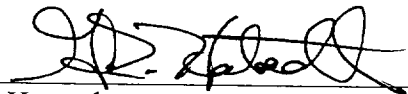
I hereby certify that a true and exact copy of the foregoing has been served on the following person(s), via the method(s) checked, on June 29th, 2001:

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